

(B) who is an optometry officer of the Reserve Corps of the Public Health Service,

who is on active duty as a result of a call or order to active duty for a period of at least one year.

(3) A general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2), in the Army, Air Force, or the National Guard, as the case may be.

(b) **RETENTION SPECIAL PAY.**—(1) Under regulations prescribed under section 303a(a) of this title, an officer described in paragraph (2) may be paid retention special pay of not more than \$6,000 for any twelve-month period during which the officer is not undergoing an internship or initial residency training.

(2) An officer referred to in paragraph (1) is an officer of an armed force who—

(A) is entitled to special pay under subsection (a);

(B) has completed any initial active-duty service commitment incurred for education and training; and

(C) is determined by the Secretary of the military department concerned to be qualified as an optometrist.

(3) An officer may not be paid retention special pay under paragraph (1) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

(4) The Secretary of the military department concerned may terminate at any time the eligibility of an officer to receive retention special pay under paragraph (1). If such eligibility is terminated, the officer concerned shall receive such special pay only for the part of the period of active duty that the officer served and may be required to refund any amount in excess of that amount.

(Added Pub. L. 92-129, title II, §202(a), Sept. 28, 1971, 85 Stat. 357; amended Pub. L. 93-64, title II, §202, July 9, 1973, 87 Stat. 149; Pub. L. 95-114, §2, Sept. 30, 1977, 91 Stat. 1046; Pub. L. 95-485, title VIII, §801(b), Oct. 20, 1978, 92 Stat. 1619; Pub. L. 96-284, §4(a), June 28, 1980, 94 Stat. 591; Pub. L. 100-26, §8(d)(2), Apr. 21, 1987, 101 Stat. 285; Pub. L. 101-510, div. A, title VI, §617(a), Nov. 5, 1990, 104 Stat. 1578.)

#### AMENDMENTS

1990—Pub. L. 101-510 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1987—Pub. L. 100-26 substituted “A” for “a” at beginning of pars. (1) to (3), “; or” for “, or” at end of par. (1)(A), period for semicolon at end of par. (1)(B), and period for “; and” at end of par. (2).

1980—Pub. L. 96-284 substituted “Each” for “(a) In addition to any other basic pay, special pay, incentive pay or allowance to which he is entitled, each”, struck out “beginning on or after October 1, 1977” after “active duty”, struck out subsec. (b) which prohibited inclusion of active duty monthly special pay in computation of amount of increase in pay authorized in any other provision of this title or in computation of retired pay or severance pay, now covered in section 303a(b) of this title, and struck out subsec. (c) which

provided that no special pay be paid for any month after September 1980.

1978—Subsec. (c). Pub. L. 95-485 substituted “September 1980” for “September 1978”.

1977—Subsec. (a). Pub. L. 95-114 amended subsec. (a) to provide for the reinstatement of special pay provisions for optometrists for each month on active duty beginning on or after Oct. 1, 1977.

Subsecs. (b), (c). Pub. L. 95-114 reenacted subsec. (b) without change and added subsec. (c).

1973—Subsec. (a). Pub. L. 93-64 substituted “July 1, 1975” for “July 1, 1973” wherever appearing.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Section 4 of Pub. L. 95-114 provided that: “The amendments made by sections 2 and 3 of this Act [amending this section and section 303 of this title] become effective on October 1, 1977.”

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as a note under section 401 of this title.

#### EFFECTIVE DATE

Section 209 of title II of Pub. L. 92-129 provided that: “The foregoing provisions of this title [enacting this section and section 428 of this title and amending sections 203 and 403 of this title and sections 2204 and 2207 of Title 50, Appendix, War and National Defense] shall become effective on October 1, 1971, except that section 203 [enacting section 308a of this title] shall become effective on such date as shall be prescribed by the Secretary of Defense, but not earlier than February 1, 1971, and section 206 [amending section 2203 of Title 50, Appendix] shall become effective July 1, 1971.”

#### IMPLEMENTATION OF SUBSECTION (b)

Section 617(b) of Pub. L. 101-510 provided that: “The Secretary of Defense may not implement subsection (b) of section 302a of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report—

“(1) justifying the need of the military departments for the authority provided in such subsection; and

“(2) describing the manner in which that authority will be implemented.”

#### PAY CONTINUATION

Enactment of this section not to reduce the pay to which any member of the uniformed services was entitled on June 30, 1971, see section 210 of Pub. L. 92-129, set out as a note under section 203 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302f, 303a, 306 of this title.

### § 302b. Special pay: dental officers of the armed forces

(a)(1) An officer who—

(A) is an officer of the Dental Corps of the Army or the Navy or an officer of the Air Force designated as a dental officer; and

(B) is on active duty under a call or order to active duty for a period of not less than one year,

is entitled to special pay in accordance with this subsection.

(2) An officer described in paragraph (1) who is serving in a pay grade below pay grade O-7 is entitled to variable special pay at the following rates:

(A) \$1,200 per year, if the officer is undergoing dental internship training or has less than three years of creditable service.

(B) \$2,000 per year, if the officer has at least three but less than six years of creditable service and is not undergoing dental internship training.

(C) \$4,000 per year, if the officer has at least six but less than 10 years of creditable service.

(D) \$6,000 per year, if the officer has at least 10 but less than 14 years of creditable service.

(E) \$4,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

(F) \$3,000 per year, if the officer has 18 or more years of creditable service.

(3) An officer described in paragraph (1) who is serving in a pay grade above pay grade O-6 is entitled to variable special pay at the rate of \$1,000 per year.

(4) Subject to subsection (b), an officer entitled to variable special pay under paragraph (2) or (3) is entitled to additional special pay for any 12-month period during which the officer is not undergoing dental internship or residency training. Such additional special pay shall be paid at the following rates:

(A) \$6,000 per year, if the officer has at least three but less than 14 years of creditable service.

(B) \$8,000 per year, if the officer has at least 14 but less than 18 years of creditable service.

(C) \$10,000 per year, if the officer has 18 or more years of creditable service.

(5) An officer who is entitled to variable special pay under paragraph (2) or (3) and who is board certified is entitled to additional special pay at the following rates:

(A) \$2,000 per year, if the officer has less than 12 years of creditable service.

(B) \$3,000 per year, if the officer has at least 12 but less than 14 years of creditable service.

(C) \$4,000 per year, if the officer has 14 or more years of creditable service.

(b)(1) An officer may not be paid additional special pay under subsection (a)(4) for any 12-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

(2) Under regulations prescribed by the Secretary of Defense under section 303a(a) of this title, the Secretary of the military department concerned may terminate at any time an officer's entitlement to the special pay authorized by subsection (a)(4). If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period on active duty that the officer served, and the officer may be required to refund any amount in excess of that entitlement.

(c) Regulations prescribed by the Secretary of Defense under section 303a(a) of this title shall include standards for determining—

(1) whether an officer is undergoing internship or residency training for purposes of subsections (a)(2)(A), (a)(2)(B), and (a)(4); and

(2) whether an officer is board certified for purposes of subsection (a)(5).

(d) Special pay payable to an officer under paragraphs (2), (3), and (5) of subsection (a) shall be paid monthly. Special pay payable to an officer under subsection (a)(4) shall be paid annually at the beginning of the 12-month period for which the officer is entitled to such payment.

(e) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (a)(4) shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.

(f) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (b) if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of a period which such person had agreed to serve on active duty. This subsection applies to a discharge in bankruptcy in any proceeding which begins after September 30, 1985.

(g) For purposes of this section, creditable service of an officer is computed by adding—

(1) all periods which the officer spent in dental internship or residency training during which the officer was not on active duty; and

(2) all periods of active service in the Dental Corps of the Army or Navy, as an officer of the Air Force designated as a dental officer, or as a dental officer of the Public Health Service.

(Added Pub. L. 93-274, §1(2), May 6, 1974, 88 Stat. 94; amended Pub. L. 96-284, §4(b), June 28, 1980, 94 Stat. 591; Pub. L. 99-145, title VI, §639(a), Nov. 8, 1985, 99 Stat. 649; Pub. L. 102-25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117.)

#### AMENDMENTS

1991—Pub. L. 102-25 struck out “of this section” wherever appearing, except in subsec. (g), and struck out “of this subsection” wherever appearing.

1985—Pub. L. 99-145 amended section generally, substituting “Special pay: dental officers of the armed forces” for “Special pay: dentists” in section catchline and new text for former text which read as follows: “An officer of the Army or Navy in the Dental Corps, an officer of the Air Force who is designated as a dental officer, or a dental officer of the Public Health Service, who is on active duty for a period of at least one year is entitled to special pay at the following rates—

“(1) \$100 a month for each month of active duty if he has not completed two years of active duty in the Dental Corps or as a dental officer;

“(2) \$150 a month for each month of active duty if he has completed at least two years of active duty in the Dental Corps or as a dental officer;

“(3) \$250 a month for each month of active duty if he has completed at least six years of active duty in the Dental Corps or as a dental officer; or

“(4) \$350 a month for each month of active duty if he has completed at least ten years of active duty in the Dental Corps or as a dental officer.”

1980—Pub. L. 96-284 struck out “, in addition to any other pay or allowances to which he is entitled,” after “entitled” and last sentence containing prohibition against inclusion of active duty monthly special pay in computation of amount of increase in pay authorized in any other provision of this title or in computation of retired pay or severance pay. See section 303a(b) of this title.

## EFFECTIVE DATE OF 1985 AMENDMENT

Section 639(f) of Pub. L. 99-145 provided that: "The amendments made by this section [amending this section, repealing section 311 of this title, and enacting provisions set out as notes under this section] take effect on October 1, 1985."

## EFFECTIVE DATE

Section effective June 1, 1974, see section 2 of Pub. L. 93-274, set out as an Effective Date of 1974 Amendment note under section 302 of this title.

AUTHORITY FOR CERTAIN DENTAL OFFICERS TO  
EXECUTE NEW AGREEMENTS

Section 639(c) of Pub. L. 99-145 provided that:

"(1) Subject to paragraphs (2) and (3), a dental officer who on October 1, 1985, is performing obligated service under an agreement under section 311 of title 37, United States Code, that—

"(A) was executed after June 29, 1985; and

"(B) is affected by the limitation in section 8091 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473), may execute a new agreement under section 302b of such title (as amended by subsection (a)).

"(2) A dental officer may not execute a new agreement under paragraph (1) unless the amount that may be paid such officer under an agreement under section 302b of title 37, United States Code (as amended by subsection (a)), is greater than the amount to be paid the officer under the existing agreement of the officer under section 311 of such title.

"(3) In executing a written agreement under paragraph (1), the officer shall agree to remain on active duty for an additional length of time equal to or exceeding the length of time originally required by the existing agreement, beginning on the date the officer accepts the award of special pay under the new agreement.

"(4) If a new agreement is executed under this subsection, the existing agreement of the officer shall be canceled.

"(5) For the purposes of this section, the term 'dental officer' has the meaning given that term in section 101 of title 10, United States Code."

## MINIMUM SPECIAL PAY

Section 639(d) of Pub. L. 99-145, as amended by Pub. L. 99-661, div. A, title XIII, §1342(c), Nov. 14, 1986, 100 Stat. 3991, provided that:

"(1) An officer described in paragraph (2) who, after September 30, 1985, is entitled to special pay under section 302b of title 37, United States Code (as amended by subsection (a)), may (notwithstanding the provisions of such section and in the discretion of the Secretary concerned) be paid such pay, in order to prevent inequities, in an annual amount equal to the total annual amount of dental continuation pay under section 311 of title 37, United States Code, and special pay for dental officers under section 302b of that title to which that officer would have been entitled on September 30, 1985, in accordance with the status of the officer (as determined by the Secretary concerned) during the period for which the pay is paid. Notwithstanding the preceding sentence, an officer may not be paid special pay by reason of this paragraph in an amount greater than the amount of special pay to which the officer was entitled under such sections on September 30, 1985.

"(2) Paragraph (1) applies to an officer who on September 30, 1985, is entitled to dental continuation pay under section 311 of title 37, United States Code; or to special pay for dental officers under section 302b of that title."

[Amendment of this note by Pub. L. 99-661 effective Nov. 14, 1986, see section 1342(h)(1) of Pub. L. 99-661, set out as an Effective Date of 1986 Amendment note under section 301 of this title.]

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302f, 303a, 303b, 306 of this title.

**§ 302c. Special pay: psychologists and nonphysician health care providers**

(a) PUBLIC HEALTH SERVICE CORPS.—A member who is—

(1) an officer in the Regular or Reserve Corps of the Public Health Service and is designated as a psychologist; and

(2) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology,

is entitled to special pay, as provided in subsection (b).

(b) RATE OF SPECIAL PAY.—The rate of special pay to which an officer is entitled pursuant to subsection (a) shall be—

(1) \$2,000 per year, if the officer has less than 10 years of creditable service;

(2) \$2,500 per year, if the officer has at least 10 but less than 12 years of creditable service;

(3) \$3,000 per year, if the officer has at least 12 but less than 14 years of creditable service;

(4) \$4,000 per year, if the officer has at least 14 but less than 18 years of creditable service;

or

(5) \$5,000 per year, if the officer has 18 or more years of creditable service.

(c) ARMY, NAVY, AND AIR FORCE PSYCHOLOGISTS.—The Secretary of Defense may provide special pay at the rates specified in subsection (b) to an officer who—

(1) is an officer in the Medical Service Corps of the Army or Navy or a biomedical sciences officer in the Air Force;

(2) is designated as a psychologist; and

(3) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology.

(d) NONPHYSICIAN HEALTH CARE PROVIDERS.—The Secretary of Defense may authorize the payment of special pay at the rates specified in subsection (b) to an officer who—

(1) is an officer in the Medical Services Corps of the Army or Navy, a biomedical sciences officer in the Air Force, or an officer in the Army Medical Specialist Corps;

(2) is a health care provider (other than a psychologist);

(3) has a postbaccalaureate degree; and

(4) is certified by a professional board in the officer's specialty.

(Added Pub. L. 100-140, §2(a), Oct. 26, 1987, 101 Stat. 830; amended Pub. L. 101-189, div. A, title VII, §704(a), (b)(1), (c), Nov. 29, 1989, 103 Stat. 1471; Pub. L. 101-510, div. A, title VI, §618(a), Nov. 5, 1990, 104 Stat. 1579; Pub. L. 102-25, title VII, §702(a)(2)(A), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-484, div. A, title VI, §611, Oct. 23, 1992, 106 Stat. 2420.)

## PRIOR PROVISIONS

A prior section 302c, added Pub. L. 96-284, §3(a)(1), June 28, 1980, 94 Stat. 589, related to special pay for medical officers of the Public Health Service, prior to repeal by Pub. L. 96-513, title IV, §414(a), Dec. 12, 1980, 94 Stat. 2906, eff. Sept. 15, 1981.